

**REMARKS**

**Summary of the Office Action**

In the Office Action, claims 2-6 and 8-19 stand rejected under 35 U.S.C. § 112, 2<sup>nd</sup> Paragraph, as being indefinite.

Claims 1, 3-6, 8, 10-12, 14 and 16-18 stand rejected under 35 U.S.C. § 102 (b) as being anticipated by U.S. Patent No. 6,349,953 to *Yoshihira*.

Claims 7, 13 and 19 stand rejected under 35 U.S.C. § 102 (b) as being anticipated by *Yoshihira*, or alternatively under 35 U.S.C. § 103 (a) as being unpatentable over *Yoshihira*.

Claims 2, 9 and 15 have been indicated as including allowable subject matter.

**Summary of the Response to the Office Action**

Applicant proposes canceling claims 3, 6, 12 and 18, and amending claims 1, 2, 4, 8 and 14 to further clarify the language thereof. Accordingly, claims 1, 2, 4, 5, 7-11, 13-17 and 19 are pending for further consideration.

**Claim Rejections under 35 U.S.C. § 112, Second Paragraph**

Claims 2-6 and 8-19 stand rejected under 35 U.S.C. 112, 2<sup>nd</sup> Paragraph, as being indefinite.

With regard to original claims 2 and 3, the Office Action requires clarification for the language, “generally orthogonal to said respective first and second sections,” “orthogonal to said second section,” and “transverse to said second section,” in claims 2 and 3. Applicant respectfully asserts that based upon the disclosure in paragraphs 11, 12 and 32-35 of the original specification, that claims 2 and 3 are definite in that they clearly point out and distinctly claim the subject matter which applicant regards as the invention. Specifically, as discussed in paragraphs 11, 12 and 32-35 of the original specification and illustrated in Fig. 4, neutralizing member 10 may include first and second sections 50, 52, respectively, each including a pair of laterally extending wings 54, 84, respectively, disposed generally orthogonal or transverse to the respective first and second sections 50, 52, with first section 50 being connected to second section 52 and being disposed generally orthogonal to second section 52 so as to provide a predetermined distribution of impact energy during a rear impact.

With regard to original claim 6, the Office Action requires clarification for the language, “laterally disposed flanges.” Applicant respectfully notes that as disclosed in paragraphs 13 and 35 of the original specification, and illustrated in Fig. 4, neutralizing member 10 may include laterally disposed flanges 68, 72.

With regard to original claim 8, the Office Action requires clarification for the language, “[wings] facing an inner surface.” Applicant respectfully notes that as disclosed in paragraph 11 of the original specification, and illustrated in Fig. 4, neutralizing member 10 may include first and second sections 50, 52, respectively, each including a pair of laterally extending wings 54, 84, facing an inner surface of the neutralizing member. In this regard, wings 54, 84 are oriented to face inwardly as shown in Fig. 4, as opposed to facing outwardly opposite to the direction shown.

With regard to original claim 12, the Office Action requires clarification for the language, “laterally disposed flanges.” Applicant respectfully notes that as disclosed in paragraphs 13 and 35 of the original specification, and illustrated in Fig. 4, neutralizing member 10 may include laterally disposed flanges 68, 72.

Based upon the explanation above, Applicant respectfully requests withdrawal of the rejection of claims 2-6 and 8-19 under 35 U.S.C. § 112, 2<sup>nd</sup> Paragraph.

### **All Claims are Allowable**

In the Office Action, claims 1, 3-6, 8, 10-12, 14 and 16-18 stand rejected under 35 U.S.C. § 102 (b) as being anticipated by U.S. Patent No. 6,349,953 to *Yoshihira*. Claims 7, 13 and 19 stand rejected under 35 U.S.C. § 102 (b) as being anticipated by *Yoshihira*, or alternatively under 35 U.S.C. § 103 (a) as being unpatentable over *Yoshihira*. Applicant traverses these rejections for the following reasons.

With regard to independent claim 1, Applicant respectfully asserts that *Yoshihira* does not teach or suggest a rear impact absorption system for a motor vehicle, the system including “a neutralizing member operatively connectable to said rear rail to bridge said first and second heights of said rear rail so as to minimize the effect of a moment arm created by said first and second heights during a rear impact, said neutralizing member further includes first and second sections each respectively including a pair of laterally extending wings disposed generally

transverse to said respective first and second sections, each of said wings face an inner surface of said neutralizing member, said second section includes a pair of laterally disposed flanges having said laterally extending wings extending therefrom, and said first section is connected to said second section and disposed generally transverse to said second section at said connection so as to provide a predetermined distribution of impact energy during a rear impact,” as recited in independent claim 1, as amended.

Support for these features recited in independent claim 1 can be found at least in paragraphs 10, 11, 13 and 26-35 of the originally filed specification, and in Figs. 1-7 of the originally filed drawings. Specifically, as shown in Figs. 2-4, the present invention provides a rear impact absorption system for a motor vehicle. The system includes a rear body assembly 12 including at least one longitudinally extending rear rail 24 including first and second portions having first and second respective heights relative to a generally horizontal plane. The system further includes neutralizing member 10 operatively connectable to rear rail 24 to bridge the first and second heights of the rear rail so as to minimize the effect of a moment arm created by the first and second heights during a rear impact. Neutralizing member 10 further includes first and second sections 50, 52, respectively, each including a pair of laterally extending wings 54, 84, respectively, disposed generally transverse to the respective first and second sections. As shown in Fig. 4, wings 54, 84 face an inner surface of the neutralizing member. Second section 52 includes a pair of laterally disposed flanges 68, 72, having the laterally extending wings 84 extending therefrom. First section 50 is connected to second section 52 and disposed generally transverse to the second section at the connection so as to provide a predetermined distribution of impact energy during a rear impact.

The Office Action cites *Yoshihira* as teaching or suggesting the rear impact absorption system recited in independent claim 1.

As noted in the Office Action, *Yoshihira*, as illustrated in Fig. 1 thereof, discloses a rear side member 1 including a reinforcement member 8 mounted thereon by means of a suspension bolt 5. Member 8 includes outer walls 8a on opposing sides of bottom wall 8A for alignment with inner wall 1b of rear side member 1.

Contrary to the teachings of *Yoshihira*, neutralizing member 10 according to the present invention includes first and second sections 50, 52, respectively, each including a pair of laterally

extending wings 54, 84, respectively, disposed generally transverse to the respective first and second sections. Moreover, as shown in Fig. 4, wings 54, 84 face an inner surface of the neutralizing member, whereas the outer walls 8a of *Yoshihira* face an outer surface of reinforcement member 8. Further, contrary to the reinforcement member disclosed in *Yoshihira*, for the present invention, second section 52 includes a pair of laterally disposed flanges 68, 72, having the laterally extending wings 84 extending therefrom, whereas *Yoshihira* discloses a single lateral wall 8a disposed on opposing sides of bottom wall 8A. Thus *Yoshihira* clearly does not teach or suggest a rear impact absorption system for a motor vehicle, the system including “a neutralizing member ... [including] ... first and second sections each respectively including a pair of laterally extending wings disposed generally transverse to said respective first and second sections, each of said wings face an inner surface of said neutralizing member,” and further, “said second section includes a pair of laterally disposed flanges having said laterally extending wings extending therefrom,” as recited in independent claim 1, as amended.

Applicant therefore respectfully asserts that based upon the exemplary deficiencies noted above, *Yoshihira* clearly fails to teach or suggest a rear impact absorption system for a motor vehicle, the system including “a neutralizing member operatively connectable to said rear rail to bridge said first and second heights of said rear rail so as to minimize the effect of a moment arm created by said first and second heights during a rear impact, said neutralizing member further includes first and second sections each respectively including a pair of laterally extending wings disposed generally transverse to said respective first and second sections, each of said wings face an inner surface of said neutralizing member, said second section includes a pair of laterally disposed flanges having said laterally extending wings extending therefrom, and said first section is connected to said second section and disposed generally transverse to said second section at said connection so as to provide a predetermined distribution of impact energy during a rear impact,” as recited in independent claim 1, as amended.

As pointed out in MPEP § 2131, “[t]o anticipate a claim, the reference must teach every element of the claim.” “A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.”

*Verdegaal Bros. v. Union Oil Co. Of California*, 2 U.S.P.Q.2d 1051, 1053 (Fed. Cir. 1987).

Moreover, as pointed out in M.P.E.P. § 2143.03, “[t]o establish prima facie obviousness of a

claimed invention, all the claimed limitations must be taught or suggested by the prior art”. *In re Royka*, 409 F.2d 981, 180 USPQ 580 (CCPA 1974). Since the above-identified criteria have not been met, Applicant respectfully asserts that the rejection under 35 U.S.C. § 102 (b) should be withdrawn because *Yoshihira* does not teach or suggest each feature of independent claim 1, as amended.

In view of the above arguments, Applicant respectfully requests the rejection of independent claim 1 under 35 U.S.C. § 102 be withdrawn. Additionally, claims 1, 2, 4, 5 and 7, which depend from independent claim 1, are allowable at least because their base claim is allowable, as well as for the additional features recited therein.

Independent claims 8 and 14

With regard to independent claim 8, Applicant respectfully asserts that *Yoshihira* does not teach or suggest a neutralizing member including at least, “first and second sections each including a pair of laterally extending wings disposed generally transverse to said respective first and second sections, each of said wings facing an inner surface of said neutralizing member, said first section being connected to said second section and being disposed generally transverse to said second section at said connection so as to provide a predetermined distribution of impact energy during a rear impact, said second section includes a pair of laterally disposed flanges having said laterally extending wings extending therefrom,” as recited in independent claim 8, as amended.

With regard to independent claim 14, Applicant further respectfully asserts that *Yoshihira* also does not teach or suggest a method for minimizing the effect of a moment arm created by first and second heights of first and second portions of a rear rail during a rear impact on a motor vehicle, said method including, “providing a neutralizing ... including first and second sections each including a pair of laterally extending wings disposed generally transverse to said respective first and second sections, each of said wings facing an inner surface of said neutralizing member, said first section being connected to said second section and being disposed generally transverse to said second section at said connection so as to provide a predetermined distribution of impact energy during a rear impact, said second section includes a

pair of laterally disposed flanges having said laterally extending winds extending therefrom," as recited in independent claim 14, as amended.

Applicant respectfully asserts that claims 8 and 14 are allowable at least for the reasons presented above for the allowance of independent claim 1, and the additional features recited therein. In the interest of avoiding redundant arguments, the arguments presented above for the allowance of claims 8 and 14 are not repeated herein. Additionally, claims 9-11, 13-17 and 19, which respectively depend from independent claims 8 and 14, are allowable at least because their base claim is allowable, as well as for the additional features recited therein.

### **CONCLUSION**

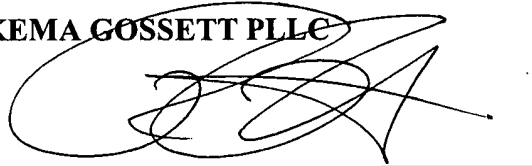
In view of the foregoing, Applicant respectfully requests reconsideration and the timely allowance of the pending claims. Should the Examiner feel that there are any issues outstanding after consideration of the response, the Examiner is invited to contact the Applicant's undersigned representative to expedite prosecution.

If there are any other fees due in connection with the filing of this response, please charge the fees to our Deposit Account No. 04-2223. If a fee is required for an extension of time under 37 C.F.R. §1.136 not accounted for above, such an extension is requested and the fee should also be charged to our Deposit Account.

Respectfully submitted,

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